

MAY 05 2011

Stephan Harris, Clerk  
Cheyenne

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

JAMES WILCOX, KELLY WILCOX,  
WILCOX LIVESTOCK, LLC, JESSE  
WILCOX,

Plaintiffs,

v.

No. 10-CV-210-J

ANDREW MAGILL, Deputy, in his  
individual capacity; MARK HARTMAN,  
Deputy, in his individual capacity;  
DAN HADDEN, Brand Inspector, in his  
individual capacity; PARK COUNTY  
SHERIFF, in his official capacity, also  
known as SCOTT STEWARD; PARK  
COUNTY SHERIFF'S OFFICE; RHONDA  
ROBINSON, citizen and resident of  
South Carolina; SCOTT STEWARD,  
individually; PARK COUNTY;

Defendants.

**ORDER STAYING PROCEEDINGS AS TO RHONDA ROBINSON**

A telephone status conference was held May 4, 2011. During that conference, counsel for the parties discussed issues related to the requested Rule 54(b) certification to the Tenth Circuit Court of Appeals and urged that the

remaining state law claims against Rhonda are separable and raise issues distinct from the other defendants, a proposition with which the Court agrees. As of this date, briefing in the Tenth Circuit has been tolled, pending proper Rule 54(b) certification to that Court by the district court. A separate Rule 54(b) certification and Amended Final Judgment has been entered by this Court.

The Court has entered its separate Rule 54(b) certification, pursuant to the parties' request as well an Amended Final Judgment as to defendants Andrew Magill, Deputy, in his individual capacity; Mark Hartman, Deputy, in his individual capacity; Dan Hadden, Brand Inspector, in his individual capacity; Scott Steward, Park County Sheriff, in his individual and official capacity; Park County Sheriff's Office and Park County, pursuant to and for the reasons stated in this Court's February 9, 2011 Order of Dismissal as to these defendants, including but not limited to qualified immunity.

The plaintiffs intend to appeal, and have appealed, the Court's earlier rulings as to the state actor and municipal/county defendants. If the Court does not stay further proceedings against defendant Rhonda Robinson during the pendency of this appeal, that portion of the plaintiffs' case against Robinson would continue to proceed through the discovery process and trial, which is

presently scheduled for trial on September 26, 2011. If the plaintiffs' prevailed on appeal, the parties would be required to engage in additional separate discovery proceedings as to the state actor and municipal/county defendants and a second separate trial as to those defendants would likely be required. To avoid that result, the Court has determined that a stay of proceedings with respect to defendant Rhonda Robinson during the pendency of the appeal to the Tenth Circuit Court of Appeals is appropriate and reasonable.


The Court has the inherent power to control its docket and to balance competing interests necessarily involved in such matters. The decision whether to impose a stay or hold a case in abeyance is a matter requiring the exercise of discretion by this Court. The Court believes that a stay in this will promote judicial economy and will conserve the litigants' resources. Imposition of a stay is not opposed by defendant Robinson or any of the other parties to this litigation. The Court further believes that holding the matter in abeyance pending the appeal will not result in unnecessary delay and could avoid the possibility of inconsistent adjudications by this Court. Furthermore, this Court has not been able to discern any disadvantage that would result to either party in this litigation by holding this matter in abeyance. See generally Commodity Fut. Trading v. Chilcott Portfolio Mgmt., 713 F.2d 1477, 1484-86 (10th Cir.

1983).

Accordingly, and for the foregoing reasons, it is hereby

**ORDERED** that discovery and all further proceedings in this matter as to defendant Rhonda Robinson shall be, and are, **STAYED** and held in abeyance pending a decision by the Tenth Circuit Court of Appeals, in No. 11-8021, Wilcox v. Magill et al. The parties are directed to advise this Court following announcement of the appellate court's decision.

Dated this 5<sup>th</sup> day of May 2011.

  
ALAN B. JOHNSON  
UNITED STATES DISTRICT JUDGE